

# WEST VIRGINIA REGISTER

Published by the Office of the Secretary of State

## CONTENTS

Volume XXVIII

Issue 14

April 8, 2011

Pages 505 - 540

A Weekly Publication

Administrative Law Division  
Judy Cooper, Manager

Natalie E. Tennant  
Secretary of State  
Administrative Law Division  
Bldg. 1, Suite 157K  
1900 Kanawha Blvd. E.  
Charleston, WV 25305-0770

(304) 558-6000  
[www.wvsos.com](http://www.wvsos.com)

- I. Chronological Index
- II. Open Government Meetings Listing
- III. Price List
- IV. Rule Monitor
- V. Notices
  - a. Legislative Rules
  - b. Interpretive Rules
  - c. Procedural Rules
  - d. Emergency Rules
  - e. Legislative Rule-Making Review Committee
- VI. Legislative Interims
- VII. Orders
- VIII. Ethics Commission Opinions
- IX. Office of Tax Appeal Decisions
- X. Other Documents or Information Filed
- XI. Publication Deadlines and Publication Dates

## INDEX

<u>AGENCY</u>	<u>PAGE(S)</u>
Administration, Dept. of	506
Aeronautics Commission, WVDOT	506
Affordable Housing Trust Fund, WV	506
Calhoun County Solid Waste Authority	506
Coal Mine Health and Safety Bd.	506
Concord University	506
Consolidated Public Retirement Board	506
Corrections	529
Council for Comm. & Tech. College Education, WV	507
Culture & History, WV Div. of	507
Dental Examiners	507
DHHR	507
Early Childhood Advisory Council of WV	508
Education	508
Environmental Quality Board	508
First Judicial Circuit Public Defender Corp.	509
Forestry, WV Div. of	509
Glenville State College	509
Governor, Office of the	509
Health and Human Resources	529
Health Care Authority	509, 534-7
Highways, Div. of	530-1
Human Rights Commission	533
Insurance Commission	533
Justice and Community Services, Div. of	509
Kanawha Co. Solid Waste Authority	509
Long Term Care	537
Lottery	510, 531
Marshall University	510
Massage Therapy Licensure Board, WV	510
Medicine	533
Miners' Health Safety & Training	538
Mountwest Community & Technical College	510
Natural Resources, WV Div. of	510
New River Comm. & Tech. College	510
Occupational Therapy	533
Optometry, WV Board of	510
Partnership to Promote Community Well-Being	510
Physical Therapy, WV Bd. Of	511, 533
Pierpont Community & Technical College	511
Professional Surveyors, WV Bd. Of	511
Public Broadcasting Foundation, WV	511
Public Defender Corporations	511
Public Service Commission	505, 514, 532
Putnam Regional Organization for Tech. and Economic Dev.	511
Racing Commission	511
Registered Professional Nurses, WV Bd. Of	511
Secretary of State	512
Shepherd University	512
South Western WV Region 2 Workforce Investment Bd.	512
Southern WV Comm. & Tech. College	512
State Fire Commission	512
State Rail Authority	532
Surface Mine Board	512, 533
Tax Department	538-40
Tri River Transit Authority	512
West Liberty University	512
West Virginia Advocates	540
West Virginia University Hospitals	513
WorkForce West Virginia	513
WV Center for Nursing	513
WV EMS TSN	513

**CHRONOLOGICAL INDEX, VOLUME XXVIII ISSUE 14**

**NEW PROPOSED RULES FILED FOR PUBLIC COMMENT THIS WEEK**

<u><b>AGENCY</b></u>	<u><b>RULE/TYPE</b></u>	<u><b>AUTHORITY</b></u>	<u><b>HEARING/COMMENT PERIOD/LOCATION</b></u>
Public Service Commission (150-08)	Rules and Regulations for the Government of Railroad Safety and Sanitation Legislative Exempt	§§24-1-1, 24-1-7, 24-2- 1, 24-2-2	Public Hearing: June 2, 2011, 9:30 a.m. Howard M. Cunningham Hearing Room PSC Headquarters 201 Brooks Street Charleston, WV Written Comments: April 29, 2011, 4:00 pm Sandra Squire, Executive Secretary Public Service Commission PO Box 812 Charleston, WV 25323

**NO NEW EMERGENCY RULES WERE FILED THIS WEEK**

<u><b>AGENCY</b></u>	<u><b>RULE/TYPE</b></u>	<u><b>AUTHORITY</b></u>	<u><b>EFFECTIVE DATE</b></u>	<u><b>DATE NOTICE FOR HEARING</b></u>

MEETING NOTICES			
Open Governmental Proceedings Act §6-9A et seq.			
Agency	Date Filed	Purpose	Meeting Date/Location
Administration, Department of <i>Committee for the Purchase of Commodities and Services from the Handicapped</i>	3/3/2011	Contact Cedric Greene at (304) 558-4331 for agenda.	April 20, 2011 10:00 AM Due to renovations, Contact Cedric Greene at (304) 558-4331.
Aeronautics Commission, WVDOT	4/6/2011	Quarterly Business Meeting	April 20, 2011 1:00 PM Mid-Ohio Valley Regional Airport 543 Airport Road Williamstown, West Virginia 26187 Phone: 304-464-5113
Affordable Housing Trust Fund, WV	3/23/2011	Consideration of the Minutes of the February 10, 2011 Meeting; Financials for the period ended February 28, 2011; Consideration of RFP Guidelines; Consideration of Predevelopment Awards Requests;	April 14, 2011 10:00 AM 814 Virginia Street, East First Floor Boardroom Charleston, WV 25301
Calhoun County Solid Waste Authority	4/6/2011	Regular monthly meeting	April 16, 2011 3:00 PM Two miles west of Grantsville on Rt. 5 at 2427 W. Little Kanawha Hwy
Coal Mine Health and Safety Board <i>Diesel Equipment Commission</i>	3/14/2011	regular meeting; will review previously submitted diesel equipment packages.	April 13, 2011 10:00 AM Days Hotel, (Flatwoods) Sutton, WV
Concord University <i>Board of Governors</i>	3/29/2011	Regularly scheduled meeting of the Board.	April 19, 2011 12:30 PM The Concord Room Marsh Hall 201A Concord University Athens, WV 24712
Consolidated Public Retirement Board <i>Board of Trustees</i>	12/28/2010	To conduct regular business and to increase the Deputy Sheriff's Employer Contribution Rate. Agenda available for said meeting at agency.	April 13, 2011 11:00 AM 4101 MacCorkle Avenue, SE Charleston, WV 25304
Consolidated Public Retirement Board <i>Executive Director Search Committee</i>	3/30/2011	Executive Director Search Committee will meet immediately following the CPRB Board meeting to review applications recieved for the vacant Executive Director position.	April 13, 2011 1:00 PM Consolidated Public Retirement Board (CPRB) 4101 MacCorkle Ave. SE Charleston, WV 25304
Consolidated Public Retirement Board, WV <i>Accounting and Investment Committee</i>	4/6/2011	To conduct regular business.	April 13, 2011 9:00 AM Consolidated Public Retirement Board 4101 MacCorkle Avenue, SE Charleston, WV 25304

*\*This meeting was filed late and does not comply with the Open Governmental Proceedings Act*

MEETING NOTICES			
Open Governmental Proceedings Act §6-9A et seq.			
Agency	Date Filed	Purpose	Meeting Date/Location
Council for Community & Technical College Education, WV	3/21/2011	Regularly scheduled business meeting of the Council.	April 14, 2011 9:00 AM South Branch Inn, 1500 US Rt 220, North Moorefield, WV 26836
Culture & History, WV Division <i>Capitol Building Commission</i>	3/30/2011	Capitol Building Commission Meeting	April 13, 2011 10:00 AM 1900 Kanawha Blvd., East The Culture Center Charleston, WV 25305 Meeting will be held in the Green Room on the lower level.
Culture and History, WV Division of <i>WV Commission on the Arts</i>	2/15/2011	Arts in Education Panel meeting	April 20, 2011 8:30 AM Green Room / Culture Center
Culture and History, WV Division of <i>WV Commission on the Arts</i>	2/15/2011	Professional Development Panel meeting	April 14, 2011 8:30 AM Green Room / Culture Center
Dental Examiners	4/1/2011	Complaint Committees meet with Counsel concerning complaint and disciplinary matters.	April 14, 2011 2:00 PM Bavarian Inn & Lodge 164 Shepherd Grade Road Shepherdstown, WV 25443
Dental Examiners	4/1/2011	To conduct business in executive or general session. Law exams and interviews of applicants for licensure will be conducted. Check agenda for session times. An agenda will be made available 3 days prior to the meeting on the Board's website.	April 16, 2011 8:00 AM Bavarian Inn & Lodge 164 Shepherd Grade Road Shepherdstown, WV 25443
Dental Examiners	4/1/2011	To conduct business in executive and/or general session, check agenda for session times. An agenda will be made available at least 3 days prior to the meeting on the Board's website.	April 15, 2011 8:00 AM Bavarian Inn & Lodge 164 Shepherd Grade Road Shepherdstown, WV 25443
DHHR	3/22/2011	To facilitate the Healthy Lifestyles Coalition and the activities to address obesity in WV	April 20, 2011 10:00 AM Greenbrooke Building- 4th Floor Insurance Commissioner's Conference Room 112 Smith Street Charleston, WV 25301

*\*This meeting was filed late and does not comply with the Open Governmental Proceedings Act*

MEETING NOTICES			
Open Governmental Proceedings Act §6-9A et seq.			
Agency	Date Filed	Purpose	Meeting Date/Location
Early Childhood Advisory Council of WV <i>Communications Committee</i>	4/7/2011	Regular Business	April 14, 2011 9:00 AM Education and the Arts Conference Room State Capitol Complex Building 5 Room 205 Charleston, WV 25305
Early Childhood Advisory Council of WV <i>Communications Committee</i>	4/7/2011	Regular Business	April 18, 2011 3:30 PM Education and the Arts Conference Room State Capitol Complex Building 5 Room 205 1900 Kanawha Blvd., East Charleston, WV 25305
Education <i>WVBE LSIC Committee</i>	2/15/2011	The West Virginia Board of Education's Local School Improvement Council (LSIC) Committee will meet to conduct routine business. The agenda will be posted at <a href="http://wvde.state.wv.us">http://wvde.state.wv.us</a> at least three business days prior to the meeting.	April 13, 2011 10:00 AM Spring Valley Career & Technical Ed. Center 1640 Spring Valley Drive Huntington, West Virginia
Education	3/17/2011	The West Virginia Board of Education will meet to conduct routine business. The agenda for this meeting will be posted at <a href="http://wvde.state.wv.us">http://wvde.state.wv.us</a> at least three business days prior to the meeting. NOTICE: If the agenda for this meeting is not completed on April 13, 2011, the agenda will resume on April 14, 2011.	April 13, 2011 1:00 PM Spring Valley Career & Technical Ed. Center 1640 Spring Valley Drive Huntington, West Virginia
Education	3/17/2011	The West Virginia Board of Education will meet to conduct routine business remaining from the April 13, 2011, agenda. This meeting will be cancelled if the agenda is completed on April 13, 2011. The April 13, 2011, agenda will be posted at <a href="http://wvde.state.wv.us">http://wvde.state.wv.us</a> at least three business days prior to the meeting.	April 14, 2011 9:00 AM Spring Valley Career & Technical Ed. Center 1640 Spring Valley Drive Huntington, West Virginia
Education <i>WVBE Common Ground: Education and the Military Committee</i>	3/17/2011	The West Virginia Board of Education's Common Ground: Education and the Military Committee will meet to conduct routine business. The agenda will be posted at <a href="http://wvde.state.wv.us">http://wvde.state.wv.us</a> three business days prior to the meeting.	April 14, 2011 1:30 PM Marshall University Memorial Student Center (John Spotts Room) 1 John Marshall Drive Huntington, West Virginia
Environmental Quality Board	4/5/2011	Administrative Meeting: Approval of November 18, 2010 meeting minutes; Budget Update; and Purchase Card Report. The Board may take up additional administrative matters and may also consider such business as it may deem appropriate consistent with the Open Governmental Proceedings Act (WV Code §6-9A-1). Portions of this meeting may not be subject to the Open Governmental Proceedings Act.	April 14, 2011 8:30 AM WV Department of Environmental Protection Hearing Room 1041 601 57th Street, S.E. Charleston, WV

*\*This meeting was filed late and does not comply with the Open Governmental Proceedings Act*

MEETING NOTICES			
Open Governmental Proceedings Act §6-9A et seq.			
Agency	Date Filed	Purpose	Meeting Date/Location
First Judicial Circuit Public Defender Corporation	3/28/2011	Regularly Scheduled Meeting.	April 14, 2011 5:30 PM Meeting Room of the County Commissioners 1st Floor Brooke County Courthouse 632 Main Street Wellsburg, WV
Forestry, WV Division of <i>State Stewardship Committee</i>	2/2/2011	State Stewardship Committee Council provides input and advice to WVDOF for administering their State Stewardship program.	April 20, 2011 10:00 AM Farm Bureau Conference Room Buckhannon, WV
Glenville State College <i>Board of Governors</i>	12/1/2010	To discuss regular business of the Board.	April 13, 2011 12:00 PM GSC Campus, Mollohan Campus Community Center Third Floor, Room 319
Glenville State College Board of Governors <i>Student and Academic Affairs</i>	12/1/2010	To discuss student and academic issues.	April 13, 2011 11:00 AM GSC Campus, Mollohan Campus Community Center Third Floor, Room 311
Glenville State College Board of Governors <i>Business and Finance</i>	12/1/2010	To discuss business and finance issues.	April 13, 2011 11:00 AM GSC Campus, Mollohan Campus Community Center Third Floor, Room 319
Governor, Office of the <i>Judicial Vacancy Advisory Commission</i>	4/5/2011	Organizational meeting by teleconference to establish deadlines and adopt procedures and requirements for the vacancy in the Fourteenth Family Court Circuit, and to discuss new and/or upcoming judicial vacancies, establish deadlines for the application and interview process for such vacancies, and otherwise adopt procedures and requirements related to such vacancies. An agenda will be available three business days prior to the meeting in Room M-146, Office of General Counsel and Legislative and Policy Director, State Capitol, Building 1, Charleston, West Virginia	April 14, 2011 11:00 AM Office of the Governor Constituent Services Conference Room W-154 State Capitol, Building 1 Charleston, West Virginia
Health Care Authority <i>Board Meeting</i>	3/30/2011	1) Grants; 2) FY 2011 Hospital Assessments; 3) Routine Business. Final filing of Certificate of Need Series 7.	April 13, 2011 11:00 AM HCA's Large Conference Room Dee Drive
Justice and Community Services, Division of <i>JJ Subcommittee</i>	4/5/2011	To hold the quarterly meeting of the Juvenile Justice Subcommittee of the Governor's Committee on Crime, Delinquency and Correction.	April 20, 2011 9:00 AM Summit Conference Center 129 Summers Street Charleston, WV 25301
Kanawha County Solid Waste Authority <i>Board of Directors</i>	4/5/2011	Regular monthly business meeting.	April 19, 2011 10:00 AM 600 Slack Street Charleston

*\*This meeting was filed late and does not comply with the Open Governmental Proceedings Act*

MEETING NOTICES			
Open Governmental Proceedings Act §6-9A et seq.			
Agency	Date Filed	Purpose	Meeting Date/Location
Lottery	4/6/2011	Placing a licensee on financial watch. Technical reduction in maximum payout percentage for racetrack video lottery terminals. Adopting a policy for limited video lottery retailers who hold ABCA Class A beer licenses. Approval of video games of licensed or permitted video lottery terminal manufacturers; Set the agenda for the April 2011 monthly business meeting.	April 14, 2011 12:00 PM Conference call Lottery headquarters 312 MacCorkle Avenue Charleston, WV
Marshall University  <i>Finance, Audit &amp; Investment Committee</i>	4/6/2011	Budgetary and other financial items and potential bond issue.	April 20, 2011 12:00 PM John Spotts Room/Memorial Student Center
Massage Therapy Licensure Board, WV	3/24/2011	Regular scheduled board meeting to conduct business, review complaints, etc.	April 17, 2011 10:00 AM Peoples Building 179 Summers Street, Conference Room 509 Charleston, WV 25301
Mountwest Community & Technical College  <i>Institutional Board of Governors</i>	3/23/2011	Regularly scheduled monthly meeting of the Institutional Board of Governors. The agenda will be posted to the college website at <a href="http://www.mctc.edu">www.mctc.edu</a> .	April 15, 2011 8:00 AM Mountwest Cooking & Culinary Institute 917 Third Avenue Huntington, WV 25755
Natural Resources, WV Div. of  <i>District IV-Beckley</i>	3/29/2011	A public hearing-proposed Comm. Game Farm permit app by Jane Brumfield dba Red Oaks Whitetail Deer Farm, Frankford WV.	April 19, 2011 11:00 AM Fairlea EMS Building 257 Third Street Fairlea WV 24901
New River Community and Technical College  <i>Board of Governors Executive Committee</i>	4/6/2011	Discuss the President's Annual Evaluation.	April 14, 2011 9:00 AM 127 Dye Drive Annex Building Room A-5 Beckley, WV 25801
Optometry, WV Board of	4/6/2011	to discuss HB2639 and rule filing	April 14, 2011 8:00 AM Conference Call. Those who wish to attend may come to the Board office 179 Summers Street, #231 Charleston, WV 25301
Partnership to Promote Community Well-Being	4/6/2011	Regular quarterly meeting of the full Partnership. Meeting agenda will be available 3 days prior to the meeting at <a href="http://www.prevNet.org">www.prevNet.org</a> . For more information, please contact Melissa B. Crawford at <a href="mailto:Melissa.crawford@marshall.edu">Melissa.crawford@marshall.edu</a>	April 15, 2011 9:00 AM WVSP Professional Development Center Institute, WV

*\*This meeting was filed late and does not comply with the Open Governmental Proceedings Act*



MEETING NOTICES			
Open Governmental Proceedings Act §6-9A et seq.			
Agency	Date Filed	Purpose	Meeting Date/Location
Physical Therapy, WV Board of	4/1/2011	Emergency meeting for consideration for disciplinary matter. Consideration for legislature filing requirement.	April 4, 2011 12:00 PM Teleconference WV Board of Physical Therapy 101 Dee Drive Charleston, WV 25311
Pierpont Community & Technical College  <i>Board of Governor's</i>	12/2/2010	Conduct regular business for the Board of Governors	April 19, 2011 2:00 PM Falcon Center Board Room
Professional Surveyors, WV Board of  <i>Complaint Review Committee</i>	4/6/2011	Review Complaints and Informal Investigative Conference	April 19, 2011 8:30 AM Board Office Sutton, WV
Public Broadcasting Foundation, WV	3/22/2011	Special meeting to discuss Foundation issues	April 13, 2011 1:00 PM 707 Virginia Street East 8th Floor Charleston WV 25301
Public Defender Corp 7th Circuit  <i>Board of Directors</i>	4/6/2011	1. Adopt minutes of previous meeting; 2. New Fiscal Budget; 3. Interns; 4. Personnel Review Forms; 5. Hiring Temporary Help; 6. Personnel Matter	April 14, 2011 3:00 PM 404 Main Street-Side Entrance Logan, WV 25601
Public Defender Corp. 7th Circuit  <i>Board</i>	*4/6/2011	1. Adopt minutes of previous meeting; 2. New Fiscal budget; 3. Interns; 4. Personnel Review Forms; 5. Hiring Temporary Help; 6. Personnel matter	April 6, 2011 3:00 PM 404 Main Street-Side entrance Logan, WV 25601
Public Defender Corporation 9th Judicial Circuit	3/29/2011	Board Meeting	April 20, 2011 12:00 PM Public Defenders Office 3rd floor 1460 Main Street Princeton, WV 24740
Public Defender Corporation, 15th Jud. Circuit	4/1/2011	Regularly scheduled quarterly board meeting	April 20, 2011 2:00 PM 215 S. Third St. Chase Tower West #600 Clarksburg, WV 26301
Putnam Regional Organization for Technical and Economic Development (PROTEC)  <i>Board of Directors</i>	12/10/2010	Required Board of Directors meeting	April 20, 2011 7:30 AM Putnam County Chamber of Commerce 5664 State Route 34 Winfield, WV 25213
Racing Commission	3/29/2011	Racing Commission monthly meeting. Agenda will be on our web page one week prior to meeting <a href="http://www.wvracingcommission.com">www.wvracingcommission.com</a>	April 15, 2011 10:00 AM Hollywood Casino Charles Town Races
Registered Professional Nurses, WV Board of	4/1/2011	Special Board Meeting to discuss a new program application and a recent change in leadership.	April 13, 2011 3:00 PM Board Conference Room

*\*This meeting was filed late and does not comply with the Open Governmental Proceedings Act*

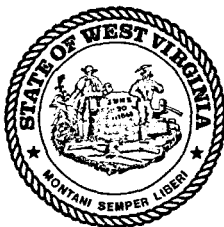
MEETING NOTICES			
Open Governmental Proceedings Act §6-9A et seq.			
Agency	Date Filed	Purpose	Meeting Date/Location
			101 Dee Drive, Suite 102 Charleston, WV 25311
Secretary of State <i>Online Voting Pilot Review Committee</i>	4/1/2011	Initial meeting of the Online Voting Pilot Project Review Committee (rescheduled from prior date)	April 15, 2011 11:00 AM Secretary of State's Conference Room 1900 Kanawha Blvd East, Suite 157K Charleston WV 25305
Shepherd University <i>Board of Governors</i>	4/6/2011	General Meeting: 1) Public Comments; 2) Adoption of Minutes of February 24, 2001 meeting; 3) President's Report; 4) Demonstration of University iPad app for New Student Recruitment; 5) Recognition of Emeritus Faculty; 6) Advisory Council of Faculty Report; 7) Approval of Amendments of Board Policy 19 and Policy 26; 8) Snyder Hall Renovations; 9) Academic Program Reviews; 10) FY12 Budget and Enrollment and Other Fees	April 14, 2011 3:30 PM Center for Contemporary Arts, Room 112 92 West Campus Drive Shepherdstown, WV 25443
South Western WV Region 2 Workforce Investment Board <i>Executive Committee</i>	4/6/2011	Regular Session. Local Elected Officials Invited to Attend. Agenda Includes: Cost Allocation Plan; On-The-Job Training Contract; By-Laws; Operational/Strategic Plan; WIA Regulations Update	April 15, 2011 02:00 PM WorkForce WV One-Stop Center 2699 Park Avenue Huntington, West Virginia 25704
Southern West Virginia Community and Technical College <i>Board of Governors</i>	4/6/2011	Regular business meeting of the Southern West Virginia Community and Technical College Board of Governors. General business of the Board will be considered. The meeting agenda will be posted three days prior to the meeting at <a href="http://www.southernwv.edu">www.southernwv.edu</a>	April 19, 2011 6:00 PM Southern WV Community & Technical College 2900 Dempsey Branch Road Room 428, Building C Mount Gay, WV
State Fire Commission	3/23/2011	Regular Scheduled Meeting	April 15, 2011 9:00 AM The Inn at Charles Town Charles Town, WV
Surface Mine Board	3/21/2011	Meeting/Hearing - Citizens of Fayette County, Appellants v. Department of Environmental Protection, Appellee and Frasure Creek Mining, LLC, Intervenor, Appeal No. 2011-01-SMB.	April 13, 2011 8:30 AM Department of Environmental Protection Office 601 57th Street Charleston, WV
Tri River Transit Authority	4/5/2011	"Regular monthly meeting of the Board of Directors, minutes, financial report, Director's Report, and passenger count".	April 13, 2011 9:00 AM Tri River Transit Authority Facility 753 Marconi Drive Hamlin, WV 25523
West Liberty University <i>Board of Governors Executive Committee</i>	4/5/2011	Discuss and set agenda items for the West Liberty University Board meeting to be held April 20, 2011.	April 13, 2011 8:00 AM Liberty Oaks Conference Room West Liberty University West Liberty, WV 26074

*\*This meeting was filed late and does not comply with the Open Governmental Proceedings Act*

MEETING NOTICES			
Open Governmental Proceedings Act §6-9A et seq.			
Agency	Date Filed	Purpose	Meeting Date/Location
West Virginia University Hospitals <i>Compensation Committee</i>	3/15/2011	To discuss executive compensation matters as it pertains to West Virginia University Hospitals.	April 19, 2011 2:00 PM West Virginia University Stewart Hall Morgantown, WV
WorkForce West Virginia <i>WorkForce Investment Council Meeting</i>	12/8/2010	Quarterly WorkForce Investment Council (WIC) meeting.	April 19, 2011 10:00 AM Marriott Town Center 200 Lee Street, East Charleston, West Virginia 25301
WV Center for Nursing <i>Research &amp; Data Meeting</i>	10/12/2010	Quarterly Meeting.	April 16, 2011 8:30 AM 1018 Kanawha Blvd E, President's Conference Room (9th Floor), Charleston, WV 25301
WV Center for Nursing <i>Board of Directors</i>	10/12/2010	Quarterly Meeting.	April 15, 2011 9:00 AM 1018 Kanawha Blvd E President's Conference Room (9th Floor) Charleston, WV 25301
WV EMS TSN <i>WRMS-EMS Board of Directors</i>	*3/31/2011	Quarterly Meeting	April 11, 2011 6:30 PM WV EMS TSN/BECKLEY FIELD OFFICE 503 MYERS AVENUE BECKLEY

*\*This meeting was filed late and does not comply with the Open Governmental Proceedings Act*

<u>PRICE LIST</u>		
<u>AGENCY</u>	<u>RULE/ORDER</u>	<u>AMOUNT</u>
Public Service Commission (150-08)	Rules and Regulations for the Government of Railroad Safety and Sanitation	\$9.80



## Natalie E. Tennant

Secretary of State  
State of West Virginia

Office of the Secretary of State  
Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, West Virginia 25305

Telephone: (304) 558-6000  
Toll Free: 1-866-SOS-VOTE  
Fax: (304) 558-0900  
www.wvsos.com

### GUIDE FOR USING THE RULE MONITOR IN THE STATE REGISTER

Column	1. Agency Name, (Title and Series Number)
Column	2. Rule Title, Price and Type
Column	3. Date Notice of Public Hearing or Comment Period Filed
Column	4. Date of Public Hearing or Last Date Comments Will Be Received
Column	5. Date Emergency Rule Filed, Emergency Amendments Filed, Emergency Rule Decision (ERD) Number & Date ERD Filed (Effective Date of Emergency Rule)
Column	6. Date Agency Approved Legislative Rules Filed.
Column	7. Date Review by the Legislative Rule-Making Review Committee & Action Taken <b>**Please Note**</b> The Board of Education, Board of Trustees & Board of Directors File Their Rules With the Educational Over-Sight Committee
Column	8. Legislative Action
Column	9. Date Agency Final Files Legislative, Procedural or Interpretive Rules. This is the Final Step for Procedural & Interpretive Rules
Column	10. Date Rule is Effective

- 
- Titles followed by an asterisk (\*\*) indicate that the rule is in effect as an emergency
  - Emergency rules will not have a "Notice" date until the agency files one but the rule will appear in Columns 1, 2 & 5. An Agency must file for either a public hearing or public comment period either before filing as an emergency or no more than 30 days after filing the rule as an emergency
  - If more than one date appears in a column, it means the agency has repeated that step (ex. - holding an additional public hearing)
  - If a particular step is not required by law for a particular rule, the "N/A" will appear in the excluded step column
  - Once a rule becomes effective & the effective date appears in Column 10, the rule will be removed from the monitor after the rule is distributed in the loose leaf version of the Code of State Rules

**CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES**

<b><u>TITLE NUMBER</u></b>	<b><u>NAME OF AGENCY</u></b>
TITLE 3	BARBERS AND COSMETOLOGISTS
TITLE 7	PROFESSIONAL ENGINEERS
TITLE 10	LICENSED PRACTICAL NURSES
TITLE 11	MEDICINE
TITLE 13	OCCUPATIONAL THERAPY
TITLE 14	OPTOMETRY
TITLE 15	PHARMACY
TITLE 16	PHYSICAL THERAPY
TITLE 17	PSYCHOLOGISTS
TITLE 20	SANITARIANS
TITLE 24	OSTEOPATHY
TITLE 25	SOCIAL WORK EXAMINERS
TITLE 26	VETERINARY MEDICINE
TITLE 27	COUNSELING
TITLE 29	SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY
TITLE 33	OFFICE OF WASTE MANAGEMENT (FORMERLY PART OF TITLE 47)
TITLE 35	OFFICE OF OIL AND GAS
TITLE 36	COAL MINE HEALTH & SAFETY
TITLE 38	MINING & RECLAMATION
TITLE 42	LABOR
TITLE 45	OFFICE OF AIR QUALITY
TITLE 47	OFFICE OF WATER RESOURCES
TITLE 48	MINES TRAINING EDUCATION & CERTIFICATION
TITLE 56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE 58	NATURAL RESOURCES
TITLE 60	ENVIRONMENTAL PROTECTION, SECRETARY'S OFFICE
TITLE 61	AGRICULTURE
TITLE 63	CONSERVATION AGENCY
TITLE 64	HEALTH
TITLE 65	HEALTH CARE AUTHORITY
TITLE 69	HEALTH & HUMAN RESOURCES
TITLE 76	SENIOR SERVICES
TITLE 78	HUMAN SERVICES
TITLE 81	STATE POLICE
TITLE 82	CULTURE AND HISTORY
TITLE 85	WORKERS COMPENSATION BY THE INSURANCE COMMISSION
TITLE 86	VETERANS AFFAIRS
TITLE 87	FIRE COMMISSION
TITLE 90	CORRECTIONS
TITLE 91	MOTOR VEHICLES
TITLE 94	REGIONAL JAIL & CORRECTIONAL FACILITY AUTHORITY
TITLE 96	WORKFORCE WEST VIRGINIA
TITLE 110	TAX DEPARTMENT
TITLE 112	TREASURER
TITLE 113	HEALTH INSURANCE PLAN
TITLE 114	INSURANCE
TITLE 126	EDUCATION
TITLE 127	SECONDARY SCHOOLS ACTIVITIES COMM.
TITLE 133	HIGHER EDUCATION POLICY COMMISSION
TITLE 135	COMMUNITY & TECHNICAL COLLEGE EDUCATION
TITLE 143	PERSONNEL
TITLE 144	TOURISM
TITLE 146	STATE ELECTION COMMISSION
TITLE 148	ADMINISTRATION
TITLE 149	CRIME, DELINQUENCY AND CORRECTION
TITLE 150	PUBLIC SERVICE COMMISSION
TITLE 153	SECRETARY OF STATE
TITLE 157	DIVISION OF HIGHWAYS
TITLE 158	ETHICS COMMISSION
TITLE 162	CONSOLIDATED PUBLIC RETIREMENT BOARD
TITLE 172	STATE RAIL AUTHORITY
TITLE 175	ALCOHOL BEVERAGE CONTROL COMMISSION
TITLE 176	ALCOHOL BEVERAGE CONTROL COMMISSION – BEER
TITLE 177	ATHLETIC COMMISSION
TITLE 178	RACING COMMISSION
TITLE 179	LOTTERY
TITLE 184	PARKWAYS ECONOMIC DEV. & TOURISM AUTHORITY
TITLE 190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD
TITLE 191	FAMILY PROTECTION SERVICES BOARD
TITLE 199	EXPLOSIVES & BLASTING
TITLE 204	HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY
TITLE 205	OUTDOOR HERITAGE CONSERVATION FUND
TITLE 207	COALFIELD COMMUNITY DEVELOPMENT
TITLE 210	GOHELP

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Administration (148-3)	State Owned Vehicles \$4.80 Legislative	6/25/2010	7/25/2010	6/25/2010 Effective 8/6/2010	7/26/2010	Modified with Certain Amendments & Approved 1/10/2011 Filed 1/21/2011	SB 286 HB 2896 Bundled SB 112		
Agriculture (61-2)	West Virginia Apiary Law of 1991 \$4.40 Legislative	6/1/2010	7/1/2010	6/1/2010 Approved 7/8/2010	7/26/2010	Modified & Approved 9/13/2010 Filed 9/21/2010	SB 102 HB 2605 Bundled HB 2639		
Agriculture (61-6C)	General Groundwater Protection Rules for Fertilizers and Manures \$4.60 Legislative	6/1/2010	7/1/2010		7/12/2010	Approved 7/21/2010	SB 104 HB 2569 Bundled HB 2639		
Agriculture (61-16)	Inspection of Meat and Poultry \$4.80 Legislative	6/14/2010	7/14/2010		7/20/2010	Approved 8/10/2010	SB 103 HB 2568 Bundled HB 2639		
Air Quality (45-8)	Ambient Air Quality Standards \$16.90 Legislative	6/9/2010	7/12/2010		7/28/2010	Approved 1/9/2011	SB 114 HB 2580 Bundled SB 121		
Air Quality (45-14)	Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration \$11.60 Legislative	6/9/2010	7/12/2010		7/28/2010	Modified & Approved 1/10/2011 Filed 1/11/2011	SB 289 HB 2899 Bundled SB 121		
Air Quality (45-16)	Standards of Performance for New Stationary Sources \$13.70 Legislative	6/9/2010	7/12/2010		7/28/2010	Approved 1/9/2011	SB 115 HB 2576 Bundled SB 121		
Air Quality (45-18)	Control of Air Pollution from Combustion of Solid Waste \$9.80 Legislative	6/9/2010	7/12/2010		7/28/2010	Modified & Approved 1/9/2011 Filed 1/11/2011	SB 290 HB 2900 Bundled SB 121		
Air Quality (45-19)	Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution Which Cause or Contribute to Nonattainment \$14.30 Legislative	6/9/2010	7/12/2010		7/28/2010	Approved 1/9/2011	SB 117 HB 2577 Bundled SB 121		

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities \$14.40 Legislative	6/9/2010	7/12/2010		7/28/2010	Approved 1/9/2011	SB 118 HB 2578 Bundled SB 121		
Air Quality (45-30)	Requirements for Operating Permits \$13.70 Legislative	1/11/2011	2/14/2011	12/21/2010 Effective 2/1/2011	3/16/2011				
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants \$21.70 Legislative	6/9/2010	7/12/2010		7/28/2010	Approved 1/9/2011	SB 119 HB 2579 Bundled SB 121		
Alcohol Beverage Control Comm. (175-1)	Licensed Retailer Operations \$6.00 Legislative	9/14/2009	10/15/2009	8/31/2009 Approved 10/8/2009	11/20/2009	Modified & Approved 1/9/2011 Filed 1/20/2011	SB 287 HB 2897 Bundled SB 177		
Alcohol Beverage Control Comm. (175-5)	Licensing of Retail Outlets \$12.80 Legislative	9/14/2009 12/10/2009	10/15/2009 1/12/2010	8/31/2009 Approved 10/8/2009 Amendment 12/10/2009 Approved 12/14/2009	11/20/2009 2/22/2010	Modified & Approved 1/9/2011 Filed 1/19/2011	SB 288 HB 2898 Bundled SB 177		
Barbers & Cosmetologists (3-1)	Procedures, Criteria and Curricula for Examination and Licensure of Barbers, Cosmetologists, Manicurists and Aestheticians \$6.00 Legislative	6/18/2010	7/22/2010		7/30/2010	Modified & Approved 10/11/2010 Filed 10/18/2010	SB 105 HB 2606 Bundled HB 2639		
Barbers & Cosmetologists (3-2)	Qualification Training, Examination of Licensure of Instructors \$4.00 Legislative	6/18/2010	7/22/2010		7/30/2010	Modified & Approved 10/11/2010 Filed 10/18/2010	SB 106 HB 2607 Bundled HB 2639		
Barbers & Cosmetologists (3-4)	Operational Standards for Schools of Barbering and Beauty Culture \$3.80 Legislative	6/18/2010	7/22/2010		7/30/2010	Modified & Approved 10/11/2010 Filed 10/18/2010	SB 107 HB 2608 Bundled HB 2639		
Barbers & Cosmetologists (3-6)	Schedule of Fees \$2.40 Legislative	5/10/2010	6/11/2010	4/27/2010 Withdrawn 5/10/2010 5/7/2010 Approved 5/14/2010	6/18/2010	Approved 10/11/2010 Filed 10/18/2010	SB 108 HB 2570 Bundled HB 2639		



**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Community & Technical College Ed. (135-23)	Standards and Procedures for Undergraduate Admissions at Comm. & Tech. Colleges \$3.60 Procedural	10/29/2010	11/29/2010						
Consolidated Public Retirement Board (162-1)	General Provisions \$4.60 Legislative	5/7/2010	6/7/2010		7/22/2010	Approved 8/10/2010	SB 109 HB 2571 Bundled SB 112		
Consolidated Public Retirement Board (162-3)	Teachers' Defined Contribution System \$5.00 Legislative	5/7/2010	6/7/2010		7/22/2010	Approved 8/10/2010	SB 110 HB 2572 Bundled SB 112		
Consolidated Public Retirement Board (162-5)	Public Employees Retirement System \$5.80 Legislative	5/7/2010	6/7/2010	4/13/2010 Effective 5/25/2010	7/22/2010	Approved 8/10/2010	SB 111 HB 2573 Bundled SB 112		
Consolidated Public Retirement Board (162-7)	Refund, Reinstatement, Retroactive Service, Loan and Employer Error Interest Factors \$5.40 Legislative	5/7/2010	6/7/2010		7/22/2010	Approved 8/10/2010	SB 112 HB 2574 Bundled SB 112		
Consolidated Public Retirement Board (162-9)	West Virginia State Police \$5.40 Legislative	5/7/2010	6/7/2010	4/13/2010 Effective 5/25/2010	7/22/2010	Approved 8/10/2010	SB 113 HB 2575 Bundled SB 112		
Crime, Delinquency and Correction (149-2)	Law Enforcement Training Standard \$8.20 Legislative	6/7/2010	7/15/2010		7/23/2010	Modified & Approved 10/11/2010 Filed 10/13/2010	SB 124 HB 2614 Bundled HB 2613		
Crime, Delinquency and Correction (149-3)	Protocol for Law Enforcement Response to Domestic Violence \$6.40 Legislative	6/23/2010	7/24/2010		7/27/2010	Modified & Approved 11/16/2010	SB 125 HB 2613 Bundled HB 2613	3/28/2011	4/28/2011
Ethics Commission (158-20)	Forms \$3.00 Legislative	4/13/2010	5/14/2010		6/24/2010	Modified & Approved 8/10/2010 Filed 8/20/2010	SB 123 HB 2612 Bundled SB 112		
Health (64-3)	Public Water Systems \$5.20 Legislative	6/23/2010	7/23/2010		7/29/2010	Approved 11/16/2010	SB 129 HB 2583 Bundled SB 295		

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health (64-29)	Specialized Multipatient Medical Transport \$5.60 Legislative	6/29/2010	7/29/2010		7/30/2010	Approved 1/10/2011	SB 128 HB 2582 Bundled SB 295		
Health (64-43)	Food Manufacturing Facilities \$3.00 Legislative	6/10/2010	7/12/2010		7/29/2010	Modified & Approved 11/16/2010 Filed 1/3/2011	SB 130 HB 2617 Bundled SB 295		
Health (64-44)	Fire Department Rapid Response Services Licensure \$4.00 Legislative	6/29/2010	7/29/2010		7/30/2010	Approved 1/10/2011	SB 131 HB 2584 Bundled SB 295		
Health (64-48)	Emergency Medical Services \$13.80 Legislative	6/29/2010	7/29/2010		7/30/2010	Modified & Approved 1/10/2011 Filed 1/24/2011	SB 294 HB 2904 Bundled SB 295		
Health (64-68)	Cancer Registry \$4.20 Legislative	6/23/2010	7/23/2010		7/29/2010	Approved 10/11/2010	SB 132 HB 2585 Bundled SB 295		
Health (64-97)	Maternal Risk Screening \$2.60 Legislative	6/23/2010	7/23/2010		7/29/2010	Modified & Approved 10/11/2010 Filed 1/3/2011	SB 133 HB 2618 Bundled SB 295		
Health (64-98)	Safety and Treatment Program \$3.20 Legislative	6/30/2010	7/30/2010	6/30/2010 Approved 8/11/2010	7/30/2010	Modified & Approved 11/16/2010 Filed 12/3/2010	SB 295 Bundled SB 295 HB 2905		
Health (64-99)	Requirement for Licensure of Nonprofit Corporations for Conservation Service \$4.80 Legislative	6/30/2010	7/30/2010	6/30/2010 Approved 8/11/2010	7/30/2010	Modified & Approved 11/16/2010 Filed 12/3/2010	SB 126 HB 2615 Bundled SB 295		
Health Care Authority (65-7)	Certificate of Need Rule \$7.20 Legislative	6/15/2010	7/16/2010		7/28/2010	Modified & Approved 11/16/2010 Filed 12/8/2010	SB 127 HB 2616 Bundled SB 295		
Higher Education Policy Comm. (133-20)	Authorization of Degree Granting Institutions \$9.40 Legislative	10/6/2010	11/5/2010		12/8/2010	Approved 12/13/2010	SB 514	3/29/2011	3/29/2011

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Highways (157-6)	Use of State Road Rights of Way and Adjacent Areas \$8.40 Legislative	6/7/2010	7/7/2010	6/7/2010 Approved 7/8/2010	7/16/2010	Modified & Approved 11/17/2010 Approved 1/9/2011	SB 135 HB 2586 Bundled HB 2586	4/6/2011	4/6/2011
Highways (157-7)	Transportation of Hazardous Wastes Upon the Roads and Highways \$3.40 Legislative	6/15/2010	7/15/2010		7/16/2010	Approved 12/14/2010	SB 136 HB 2587 Bundled HB 2586	4/6/2011	4/6/2011
Highways (157-10)	Community Empowerment Transportation Act Program \$3.60 Legislative	6/25/2010	7/26/2010		7/27/2010	Modified & Approved 11/17/2010	SB 134 HB 2619 Bundled HB 2586	4/6/2011	4/6/2011
Insurance Commission (114-6)	Credit Life Insurance, Credit Accident and Sickness Insurance, and Credit Unemployment Insurance \$5.40 Legislative	6/15/2010	7/15/2010		7/27/2010	Modified & Approved 9/13/2010 Filed 9/28/2010	SB 142 HB 2623 Bundled SB 177		
Insurance Commission (114-11B)	Suitability in Annuity Transactions \$7.40 Legislative	6/15/2010	7/15/2010		7/29/2010	Approved 9/13/2010	SB 137 HB 2588 Bundled SB 177		
Insurance Commission (114-25)	Insurance Adjusters \$6.40 Legislative	6/15/2010	7/15/2010	6/15/2010 Withdrawn 7/15/2010	7/27/2010	Modified & Approved 10/11/2010 Filed 10/20/2010	SB 138 HB 2620 Bundled SB 177		
Insurance Commission (114-32)	Long-Term Care Insurance \$15.40 Legislative	6/11/2010	7/12/2010		7/29/2010	Modified & Approved 9/13/2010 Filed 9/28/2010	SB 139 HB 2621 Bundled SB 177		
Insurance Commission (114-41)	Actuarial Opinion and Memorandum Rule \$7.20 Legislative	6/11/2010	7/12/2010		7/27/2010	Approved 9/13/2010	SB 140 HB 2589 Bundled SB 177		
Insurance Commission (114-41A)	Property and Casualty Actuarial Opinion \$3.00 Legislative	6/15/2010	7/15/2010	9/1/2010 Effective 10/13/2010	7/27/2010	Modified & Approved 11/16/2010 Filed 12/1/2010	SB 141 HB 2622 Bundled SB 177		
Insurance Commission (114-61)	Credit Personal Property \$6.00 Legislative	6/15/2010	7/15/2010		7/27/2010	Approved 9/13/2010	SB 143 Bundled SB 177 HB 2590		

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Insurance Commission (114-65)	Self-Insurance Pools for Political Subdivisions \$5.20 Legislative	6/18/2010	7/18/2010		7/27/2010	Modified & Approved 11/16/2010 Filed 12/1/2010	SB 144 HB 2624 Bundled SB 177		
Insurance Commission (114-68)	Valuation of Life Insurance Companies \$7.80 Legislative	6/11/2010	7/12/2010		7/27/2010	Approved 10/11/2010	SB 145 HB 2591 Bundled SB 177		
Insurance Commission (114-69A)	Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities \$5.20 Legislative	6/11/2010	7/12/2010		7/27/2010	Approved 10/11/2010	SB 146 HB 2592 Bundled SB 177		
Insurance Commission (114-85)	Professional Employer Organizations \$5.60 Legislative	6/11/2010	7/12/2010	6/11/2010 Effective 7/23/2010	7/27/2010	Approved 10/11/2010	SB 147 HB 2593 Bundled SB 177		
Insurance Commission (114-91)	Health Maintenance Organization Point of Service Option \$6.60 Legislative	6/11/2010	7/12/2010		7/27/2010	Approved 11/16/2010	SB 148 HB 2594 Bundled SB 177		
Labor (42-21)	Elevator Safety Act \$4.20 Legislative	6/29/2010	7/29/2010		7/30/2010	Modified & Approved 9/13/2010 Filed 9/23/2010	SB 149 HB 2625 Bundled HB 2626		
Labor (42-21A)	Supervision of Elevator Mechanics and Apprentices \$4.00 Legislative	6/29/2010	7/29/2010		7/30/2010	Modified & Approved 9/13/2010 Filed 9/23/2010	SB 150 HB 2626 Bundled HB 2626		
Labor (42-24)	Crane Operator Certification Act \$4.80 Legislative	6/16/2010	7/16/2010		7/23/2010	Modified & Approved 9/13/2010 Filed 9/23/2010	SB 151 HB 2627 Bundled HB 2626		
Labor (42-25)	Crane Operator Certification Act – Practical Examination \$3.00 Legislative	6/16/2010	7/16/2010		7/23/2010	Modified & Approved 9/13/2010 Filed 9/23/2010	SB 152 HB 2628 Bundled HB 2626		

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Mining & Reclamation (38-2)	West Virginia Surface Mining Reclamation Rule \$31.50 Legislative	12/16/2009 6/10/2010	1/18/2010 7/13/2010	12/16/2009 Approved 12/23/2009	2/1/2010 7/30/2010	Modified with Certain Amendments & Approved 1/10/2011 Filed 1/18/2011	SB 292 HB 2902 Bundled SB 121		
Motor Vehicles (91-12)	Motor Vehicle Inspection Manual \$33.50 Legislative	6/18/2010	7/19/2010		7/26/2010	Approved 11/15/2010	SB 153 HB 2647 Bundled HB 2586		
Motor Vehicles (91-19)	Approval of Motor Vehicle Accident Prevention Courses \$3.80 Interpretive	12/28/2010	2/1/2011						
Natural Resources (58-27)	Special Motorboating Regulations \$2.60 Legislative	5/4/2010	6/6/2010	4/13/2010 Effective 5/27/2010	6/29/2010	Modified & Approved 7/21/2010 Filed 7/28/2010	SB 154 HB 2629 Bundled HB 2626		
Natural Resources (58-47)	Prohibitions When Hunting and Trapping \$4.00 Legislative	6/15/2010	7/16/2010		7/22/2010	Approved 8/10/2010	SB 155 HB 2595 Bundled HB 2626		
Natural Resources (58-49)	General Hunting \$4.00 Legislative	6/15/2010	7/16/2010		7/22/2010	Approved 8/10/2010	SB 156 HB 2596 Bundled HB 2626		
Nursing Home Administrators Licensing Bd. (21-1)	Nursing Home Administrators \$6.40 Legislative	2/14/2011	3/16/2011		3/28/2011				
Optometry (14-1)	Rules of the WV Bd. of Optometry \$3.60 Legislative	6/25/2010	7/26/2010		7/30/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 157 HB 2630 Bundled HB 2639		
Optometry (14-2)	Expanded Prescriptive Authority \$3.00 Legislative	6/25/2010	7/26/2010		7/30/2010	Filed 1/3/2011	SB 296 HB 2906 Bundled HB 2639		
Optometry (14-5)	Schedule of Fees \$2.60 Legislative	6/25/2010	7/26/2010		7/30/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 159 HB 2632 Bundled HB 2639		

RULE MONITOR									
AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Optometry (14-6)	Examination and Scoring Policy \$2.60 Legislative	6/25/2010	7/26/2010		7/30/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 160 HB 2633 Bundled HB 2639		
Optometry (14-8)	Licensure by Endorsement \$2.60 Legislative	6/25/2010	7/26/2010		7/30/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 161 HB 2634 Bundled HB 2639		
Optometry (14-9)	Contact Lenses that Contain and Deliver Pharmaceutical Agents Certificate \$2.40 Legislative	6/25/2010	7/26/2010		7/30/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 162 HB 2635 Bundled HB 2639		
Optometry (14-10)	Continuing Education \$2.80 Legislative	6/25/2010	7/26/2010		7/30/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 158 HB 2631 Bundled HB 2639		
Optometry (14-11)	Injectable Pharmaceutical Agents Certificate \$3.20 Legislative	6/24/2010	7/23/2010		7/30/2010	Modified with certain amendments and approved 12/14/2010 Filed 12/23/2010	SB 297 HB 2907 Bundled HB 2639		
Osteopathy (24-2)	Osteopathic Physician Assistants \$5.00 Legislative	6/14/2010	7/14/2010	6/14/2010 Approved 7/8/2010 Amendment 11/10/2010 Approved 11/17/2010	7/30/2010	Modified & Approved 11/16/2010 Filed 11/29/2010	SB 163 HB 2636 Bundled HB 2639		
Osteopathy (24-5)	Fees for Services Rendered by the Bd. of Osteopathy \$2.60 Legislative	6/14/2010	7/14/2010		7/28/2010	Modified & Approved 11/16/2010 Filed 11/29/2010	SB 164 HB 2637 Bundled HB 2639		
Pharmacy (15-1)	Board of Pharmacy Rules Regarding Licensure and the Practice of Pharmacy \$13.80 Legislative	6/17/2010	7/18/2010		7/29/2010	Approved 11/16/2010	SB 165 HB 2597 Bundled HB 2639		

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Pharmacy (15-8)	Controlled Substances Monitoring \$6.40 Legislative	6/17/2010	7/18/2010		7/29/2010	Approved 11/16/2010	SB 166 HB 2598 Bundled HB 2639		
Physical Therapy (16-1)	Supervision of a Physical Therapist Assistant \$13.80 Legislative	6/29/2010	7/29/2010	6/29/2010 Approved Section 8 only 7/14/2010 Amendment 11/5/2010 Approved Section 8 only 11/16/2010	7/30/2010	Modified & Approved 12/14/2010 Filed 12/21/2010	SB 167 HB 2638 Bundled HB 2639		
Physical Therapy (16-4)	Fees for Physical Therapist and Physical Therapist Assistant \$3.80 Legislative	6/29/2010	7/29/2010		7/30/2010	Approved 12/14/2010	SB 168 HB 2599 Bundled HB 2639		
Physical Therapy (16-5)	General Provisions for Athletic Trainers \$2.80 Legislative	6/29/2010	7/29/2010		7/30/2010	Modified & Approved 9/13/2010 Filed 9/20/2010	SB 169 HB 2639 Bundled HB 2639		
Physical Therapy (16-6)	Fees for Athletic Trainers \$2.40 Legislative	6/29/2010	7/29/2010		7/30/2010	Modified & Approved 9/13/2010 Filed 9/20/2010	SB 170 HB 2640 Bundled HB 2639		
Public Service Commission (150-3)	Rules and Regulations for the Government of Electric Utilities \$13.40 Legislative Exempt	3/22/2011	4/21/2011						
Public Service Commission (150-8)	Rules and Regulations for the Government of Railroad Safety and Sanitation \$9.80 Legislative Exempt	3/31/2011	Hearing 6/2/2011 Written Comments 4/29/2011						
Public Service Commission (150-33)	Rules Governing Electric Utility Net Metering Arrangements and Interconnections \$14.30 Exempt Legislative	12/27/2010	1/26/2011						
Public Service Commission (150-35)	Rules Governing Innovative, Alternative Sewer Systems \$5.60 Legislative Exempt	2/9/2011	3/15/2011						

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Racing Commission (178-1)	Thoroughbred Racing \$21.40 Legislative	6/7/2010	7/8/2010		7/27/2010	Modified & Approved 1/10/2011 Filed 1/20/2011	SB 298 HB 2908 Bundled SB 177		
Racing Commission (178-2)	Greyhound Racing \$12.30 Legislative	6/29/2010	7/29/2010		7/30/2010	Modified & Approved 1/10/2011 Filed 1/20/2011	SB 299 HB 2909 Bundled SB 177		
Racing Commission (178-5)	Pari-Mutuel Wagering \$14.70 Legislative	6/7/2010	7/8/2010		7/16/2010	Modified & Approved 1/10/2011 Filed 1/20/2011	SB 300 HB 2910 Bundled SB 177		
Racing Commission (178-6)	Due Process and Hearings \$5.20 Procedural	1/21/2011	2/22/2011						
Sanitarians, Bd. Of Reg. for (20-1)	Rules of Procedure for Contested Case Hearings and Declaratory Rulings \$4.00 Procedural	12/28/2010	1/28/2011						
Sanitarians, Bd. Of Reg. for (20-2)	Procedure for the Investigation and Resolution of Complaints \$3.80 Procedural	12/28/2010	1/28/2011						
Sanitarians, Bd. Of Reg. for (20-3)	Interim Fee Schedule \$3.60 Legislative	6/17/2010	7/19/2010	5/18/2010 Effective 6/29/2010	7/29/2010	Approved 11/16/2010	SB 171 HB 2600 Bundled HB 2639		
Sanitarians, Bd. of Ref. for (20-4)	Rules Governing the Practice of Public Health Sanitation \$4.60 Legislative	6/23/2010	7/23/2010		7/29/2010	Approved 11/16/2010	SB 172 HB 2601 Bundled HB 2639		
Secretary of State (153-25)	Combined Voter Registration and Driver Licensing Fund \$4.60 Legislative	10/8/2010	11/8/2010		11/12/2010	Approved 1/9/2011	SB 173 HB 2602 Bundled HB 2639		
State Election Commission (146-5)	WV Supreme Court of Appeals Public Campaign Financing Pilot Program \$6.20 Legislative	6/18/2010	7/19/2010		7/29/2010	Modified & Approved 1/9/2011 Filed 1/14/2011	SB 293 HB 2903 Bundled HB 2639		



RULE MONITOR									
AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
State Rail Authority (172-2)	Valuation of Used Rolling Stock and Equipment \$2.40 Legislative	3/31/2010	4/30/2010		5/13/2010	Approved 8/10/2010	SB 174 HB 2603 Bundled HB 2586	4/6/2011	4/6/2011
Tax Department (110-10D)	Use and Acceptance of Electronic Records \$5.40 Procedural	12/29/2010	1/31/2011						
Tax Department (110-10F)	Payment of Taxes by Electronic Funds Transfer \$6.80 Legislative	1/26/2011	2/24/2011	12/29/2010 Approved 2/8/2011					
Tax Department (110-13Q)	Commercial Patent Incentives Tax Credit \$4.40 Legislative	6/14/2010	7/15/2010		7/28/2010	Modified & Approved 10/11/2010 Filed 11/5/2010	SB 175 HB 2641 Bundled SB 177		
Tax Department (110-50E)	Exchange of Information Agreement Between the State Tax Department and the WV Lottery \$3.60 Legislative	6/3/2010	7/6/2010		7/26/2010	Approved 10/11/2010	SB 176 HB 2604 Bundled SB 177		
Tax Department (110-50F)	Exchange of Information Agreement Between the State Tax Department and the State Fire Marshal \$2.40 Legislative	6/3/2010	7/6/2010		7/26/2010	Modified & Approved 10/11/2010 Filed 11/5/2010	SB 177 HB 2642 Bundled SB 177		
Treasurer's Office (112-3)	Establishment of Imprest Funds \$2.80 Legislative	5/26/2010	6/28/2010		6/30/2010	Modified & Approved 7/21/2010 Filed 7/30/2010	SB 301 HB 2911 Bundled HB 2639		
Veterinary Medicine (26-1)	Organization and Operation and Licensing of Veterinarians \$5.60 Legislative	6/25/2010	7/26/2010		7/27/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 178 HB 2643 Bundled HB 2639		
Veterinary Medicine (26-3)	Registration of Veterinary Technicians \$4.20 Legislative	6/25/2010	7/26/2010		7/27/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 179 HB 2644 Bundled HB 2639		

**RULE MONITOR**

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Veterinary Medicine (26-4)	Standards of Practice \$5.80 Legislative	6/25/2010	7/26/2010		7/27/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 180 HB 2645 Bundled HB 2639		
Veterinary Medicine (26-5)	Certified Animal Euthanasia Technicians \$4.60 Legislative	6/25/2010	7/26/2010	6/25/2010 Effective 8/6/2010	7/27/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 181 HB 2646 Bundled HB 2639		
Veterinary Medicine (26-6)	Schedule of Fees \$2.80 Legislative	6/25/2010	7/26/2010		7/27/2010	Modified & Approved 11/16/2010 Filed 11/24/2010	SB 182 HB 2566 Bundled HB 2639		
Waste Management (33-20)	Hazardous Waste Management Rule \$7.00 Legislative	6/14/2010	7/15/2010		7/30/2010	Modified & Approved 9/13/2010 9/21/2010	SB 116 HB 2609 Bundled SB 121		
Water Resources (47-2)	Requirements Governing Water Quality Standards \$12.80 Legislative	3/3/2010 6/4/2010	4/1/2010 7/19/2010	3/3/2010 Approved 3/5/2010	6/4/2010 7/30/2010	Approved 1/10/2011	SB 122 HB 2581 Bundled SB 121		
Water Resources (47-10)	National Pollutant Discharge Elimination System (NPDES) System \$13.90 Legislative	Called up by 2011 Legislature					Bundled SB 121		
Water Resources (47-12)	Requirements Governing Groundwater Standards \$3.20 Legislative	6/11/2010	7/15/2010		7/23/2010	Modified & Approved 9/13/2010 Filed 9/14/2010	SB 121 HB 2611 Bundled SB 121		
Water Resources (47-60)	Monitoring Well Design Standards \$8.40 Legislative	6/15/2010	7/15/2010		7/26/2010	Modified & Approved 9/13/2010 Filed 9/22/2010	SB 120 HB 2610 Bundled SB 121		
WorkForce West Virginia (96-3)	Employer Violator System \$3.60 Legislative	8/5/2009	9/7/2009	7/31/2009 Approved 8/24/2009 Amendment 9/28/2010 ERD by 11/9/2010 Expired 10/31/2010	9/24/2009	Modified & Approved 10/11/2010 Filed 10/18/2010	SB 183 HB 2567 Bundled HB 2626		

Division of Corrections' Policy Directives  
Additions/Revisions

01 April 2011

- |     |                             |  |
|-----|-----------------------------|--|
| 1.  | Policy Directive 315.02     | REVISED – Effective 01 April 2011                |
| 2.  | Policy Directive 315.03     | NEW – Effective 01 April 2011                    |
| 3.  | Policy Directive 315.04     | NEW – Effective 01 April 2011                    |
| 4.  | Policy Directive 401.09     | REVISED – Effective 01 April 2011                |
| 5.  | Policy Directive Index      | Revised Alphabetical Listing                     |
| 6.  | Policy Directive Index      | Revised Numerical Listing                        |
| 7.  | Policy Directive Index      | Revised Numerical Listing – 300's<br>Pages 3 – 6 |
| 8.  | Policy Directive Index      | Revised Numerical Listing – 400's<br>Page 1      |
| 9.  | Policy Directive Book Index | Book #3 – Pages 4 – 7                            |
| 10. | Policy Directive Book Index | Book #4 – Page 1                                 |

LEGISLATIVE

Maureen Lewis

From: Dingess, Jennifer L <Jennifer.L.Dingess@wv.gov>  
Sent: Thursday, March 31, 2011 3:23 PM  
To: Maureen Lewis  
Subject: State Register and Medicaid State Plan Update SPA 10-08  
Attachments: 10-08 RAC APPROVED.pdf

2011 MAR 31 PM 3:07

SECRETARY OF STATE

SPA 10-08 Recovery Audit Contractor Program (RACs)

Attached please find an approved amendment to the West Virginia Medicaid State Plan. Please find in your Medicaid State Plan book, Section 4 and add the pages as indicated below:

NEW PLAN PAGES to be inserted in Section 4 in between part 4.43 page 1 and part 5.1.

WV Code §29A-1-3(c) requires that rules relating to public assistance shall be filed and published in the state register. It is my understanding that the Office of the Secretary of State has accepted the Bureau's format for rules, manuals, etc.

Please reply to this email acknowledging receipt.

Jennifer L. G. Dingess, Secretary II  
Secretary to Filva Page III & Susan Harman, Legal Counsel  
West Virginia Department of Health and Human Resources  
Bureau for Medical Services  
350 Capitol Street, Room 251  
Charleston, West Virginia 25301

Phone: 304-558-1788 will be changed to 304-356-4859

Fax: 304-558-1509

Jennifer.L.Dingess@wv.gov

Attention: HIPAA PII: Special Handling Required

This e-mail communication that you have received may contain Protected Health Information (PHI) as defined by The Health Insurance Portability and Accountability Act of 1996 (HIPAA). Federal law mandates that you not use or disclose the information contained herein in any way that will compromise the privacy, security or confidentiality of the individual to whom the information pertains. If this e-mail communication has been misdirected to you, notify the sender of this e-mail at your earliest opportunity, delete the e-mail and destroy any copies of the e-mail that you may have produced.

This request for attorney advice and information from clients is subject to attorney/client privilege. The information contained in this electronic message is legally privileged and confidential under applicable law and is intended only for the use of the individual or entity named above. If the recipient of this message is not the above-named intended recipient, you are hereby notified that any dissemination, copy or disclosure of this communication is strictly prohibited.

file: PD040111

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #6

Do Not Mark In This Box

2011 APR -6 AM 11:06

LEGISLATIVE

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #6

Do Not Mark In This Box

2011 APR -6 AM 11:06

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WV Department of Transportation, Division of Highways TITLE NUMBER: 157

AMENDMENT TO AN EXISTING RULE: YES ☒ NO ☐

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Six

TITLE OF RULE BEING AMENDED: Use of State Road Rights of Way and Adjacent Areas

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 2586

SECTION 64-8-1, PASSED ON March 8, 2011

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: April 6, 2011

Paul d. Mattox, Jr.  
Authorized Signature

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WV Department of Transportation, Division of Highways TITLE NUMBER: 157

AMENDMENT TO AN EXISTING RULE: YES ☒ NO ☐

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Seven

TITLE OF RULE BEING AMENDED: Transportation of Hazardous Wastes Upon the Roads  
and Highways

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 2586

SECTION 64-8-1, PASSED ON March 8, 2011

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: April 6, 2011

Paul d. Mattox, Jr.  
Authorized Signature

45.40

45.40

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Do Not Mark In This Box

**LEGISLATIVE**

2011 APR -5 AM 11:06

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WV Department of Transportation, Division of Highways TITLE NUMBER: 157

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Ten

TITLE OF RULE BEING PROPOSED: Community Empowerment Transportation Act Program

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 2586

SECTION 64-8-1, PASSED ON March 8, 2011

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE

FOLLOWING DATE: April 6, 2011

Paul A. Miller  
Authorized Signature



P.O. BOX 2067  
CHARLESTON, WV 25307  
Earl Ray Tomblin  
Governor

PHONE: 304-558-0500  
FAX: 304-558-3321  
John C. Musgrave  
Director

March 31, 2011

Honorable Natalie Tennant  
West Virginia Secretary of State  
Attn: Administrative Law Division  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0771

Dear Secretary Tennant:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "Glitz", "Dean Martin's Wild Party", "Win It Again - I Love Lucy", and "Win It Again - All That Glitters 2" games manufactured by WMS Gaming, Inc. for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

John C. Musgrave  
John C. Musgrave  
Director

JCM/mr

Enclosures: Glitz  
Dean Martin's Wild Party  
Win It Again - I Love Lucy  
Win It Again - All That Glitters 2

www.wvlottery.com

43.60

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #1

Do Not Mark In This Box

LEGISLATIVE

2011 MAR 31 PM 2:41

SECRETARY OF STATE

**NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE**

AGENCY: Public Service Commission TITLE NUMBER: 150

RULE TYPE: Legislative Exempt CITE AUTHORITY: W. Va. Code 24-1-1, 24-1-7, 24-2-1, 24-2-2

AMENDMENT TO AN EXISTING RULE: YES ☒ NO ☐

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 8  
Rules and Regulations for the Government of Railroad Safety and Sanitation

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

DATE OF PUBLIC HEARING: June 2, 2011 TIME: 9:30 a.m.

LOCATION OF PUBLIC HEARING: Howard M. Cunningham Hearing Room, PSC Headquarters, 201 Brooks St., Charleston, WV

COMMENTS LIMITED TO: ORAL ☐ WRITTEN ☐ BOTH ☒

DATE WRITTEN COMMENT PERIOD ENDS: Initial 4 p.m. April 28, 2011; Reply 4 p.m. May 18, 2011 TIME: \_\_\_\_\_

WRITTEN COMMENTS MAY BE MAILED TO:

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

Sandra Squire, Executive Secretary  
Public Service Commission  
P.O. Box 812  
Charleston, WV 25323

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Michael A. Albert  
Chairman Authorized Signature

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #6

Do Not Mark In This Box

2011 APR -6 PM 1:46

SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: State Rail Authority  
WV Department of Transportation, Division of Highways TITLE NUMBER: 172

AMENDMENT TO AN EXISTING RULE: YES ☒ NO ☐

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Two

TITLE OF RULE BEING AMENDED: Valuation of Used Rolling Stock and Equipment

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 2586

SECTION 64-8-3, PASSED ON March 8, 2011

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE

FOLLOWING DATE: April 6, 2011

Paul d. Matlock, Jr.  
Authorized Signature

47.80

42.40

# Orders Report

Docket Number	Agency	Respondent	Decision Date
ER-104-07	Human Rights Commission	Wal-Mart Stores Inc., Bob Smith and James Haugh	4/4/2011
10-AP-FINCON-02017	Insurance Commission	Marsh USA, Inc.	3/22/2011
N/A	Medicine	Joseph Anderson Cooper, P.A.-C.	3/30/2011
N/A	Medicine	Donald Ray Murphy, Jr., P.A.-C.	3/30/2011
N/A	Occupational Therapy	Billie J. Smith	3/18/2011
2010-05	Physical Therapy	Tiffiney S. Bentley, P.T.	3/24/2011
2010-01	Physical Therapy	Tiffany Thompson, P.T.A.	3/24/2011
2010-04	Physical Therapy	Douglas A. Palmer	3/24/2011
2010-18-SMB	Surface Mine Board	S&A Homes, LLC	3/23/2011
09-08-SMB	Surface Mine Board	Pinnacle Mining Company	3/31/2011

## OTHER

**WEST VIRGINIA HEALTH CARE AUTHORITY  
CERTIFICATE OF NEED  
100 Dee Drive  
Charleston, West Virginia 25311-1600**

April 4, 2011

2011 APR -4 PM 3:17

SEAL OF THE STATE

### **LEGAL NOTICE**

James L. Pitrolo, Jr., Chairman, West Virginia Health Care Authority, announces the following Certificate of Need activities for the week ending April 1, 2011.

#### **EXPEDITED APPLICATIONS RECEIVED**

March 29, 2011 – Loved Ones In Home Care, South Charleston, Kanawha County, CON File #11-1/2/3/4/5/6/7-9353-PC, for the provision of in-home personal care services in Barbour, Braxton, Boone, Cabell, Calhoun, Clay, Doddridge, Fayette, Greenbrier, Gilmer, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, Marion, McDowell, Mercer, Mingo, Monongalia, Monroe, Nicholas, Putnam, Raleigh, Ritchie, Roane, Summers, Upshur, Wayne, Webster, Wirt, Wood, and Wyoming Counties; no capital expenditure.

March 30, 2011 – Health Care REIT, Inc., Toledo, Ohio, FC-GEN Operations Investment, LLC, Alpharetta, Georgia, FC-GEN Real Estate, LLC, Toledo, Ohio, Genesis Operations LLC, GHC Ancillary Corporation, GHC JV Holdings, LLC, Care Haven JV LLC, Glenmark Properties I JV LLC, Kennett Square, Pennsylvania, CON File #11-2/3/4/5/6/8/9/11-9388-A, involving a change affecting the ownership of the real estate and equipment of twenty (20) West Virginia nursing homes; capital expenditure: \$416,750,000.

March 31, 2011 – HEALTHSOUTH MountainView Rehabilitation Hospital, Morgantown, Monongalia County, CON File #11-6-9391-B, for the relocation of 16 rehabilitation beds to a satellite unit at United Hospital Center, Bridgeport, Harrison County; capital expenditure: \$950,000.

#### **APPLICATIONS DECLARED COMPLETE AND UNDER REVIEW**

An application declared complete is one in which there is sufficient information for the Authority to make an informed decision. It does not mean that the approval of the application is warranted.

#### **EXPEDITED APPLICATIONS**

March 31, 2011 – Health Care REIT, Inc., Toledo, Ohio, FC-GEN Operations Investment, LLC, Alpharetta, Georgia, FC-GEN Real Estate, LLC, Toledo, Ohio, Genesis Operations LLC, GHC Ancillary Corporation, GHC JV Holdings, LLC, Care Haven JV LLC, Glenmark Properties I JV LLC, Kennett Square, Pennsylvania, CON File #11-2/3/4/5/6/8/9/11-9388-A, involving a change affecting the ownership of the real estate and

equipment of twenty (20) West Virginia nursing homes; capital expenditure: \$416,750,000.

March 31, 2011 – HEALTHSOUTH MountainView Rehabilitation Hospital, Morgantown, Monongalia County, CON File #11-6-9391-B, for the relocation of 16 rehabilitation beds to a satellite unit at United Hospital Center, Bridgeport, Harrison County; capital expenditure: \$950,000.

The review cycle for the above-referenced projects is as follows:

April 9, 2011 – Review cycle begins;

April 19, 2011 – Last date for an affected person to present reasons why the applicant should complete a standard application to the Authority;

May 9, 2011 – Last date for an affected person to request a public hearing on the project. If a public hearing is requested, notice of time and place will be given in the Saturday editions of the Charleston Gazette and the Charleston Daily Mail, as well as the State Register;

May 10, 2011 – If no public hearing is requested, the file will close and no further information or evidence will be accepted by the Authority and no further contact with the Authority regarding the substance of the application will be permitted;

June 13, 2011 – Decision on the project will be issued by the Authority.

#### **PROJECTS DETERMINED NOT REVIEWABLE**

March 30, 2011 – Bio-Medical Applications of West Virginia, Inc. d/b/a BMA Two Virginias, Raleigh, North Carolina, CON File #11-1-9393-X, for the relocation and expansion of its dialysis facility located in Bluefield, Mercer County; capital expenditure: \$1,590,785.

March 30, 2011 – Mainstream Services, Lavalette, Wayne County, CON File #11-2-9383-X, for the addition of an administrative office to be located at 112 Smith Street, Lavalette, Wayne County; no capital expenditure.

March 30, 2011 – Phelps Behavioral Services and Counseling Ltd., Parkersburg, Wood County, CON File #11-5-9389-X, for the expansion of community-based behavioral health services in Wood County; no capital expenditure.

March 30, 2011 – Stanaford Infusion Services Clinic, Beckley, Raleigh County, CON File #11-1-9394-X, for the provision of infusion therapy services through a physician clinic to be located at 269 Stanaford Road, Beckley, Raleigh County; no capital expenditure.

April 1, 2011 – Webster County Memorial Hospital, Webster Springs, Webster



County, CON File #11-4-9390-X, for the expansion of its existing pharmacy services to include a retail outpatient practice to be located within WCMH; capital expenditure: \$50,000.

#### **PROJECT EXEMPT FROM REVIEW**

March 30, 2011 – Lincoln Primary Care Center, Inc. d/b/a Southern West Virginia Health System, Hamlin, Lincoln County, CON File #10-2-9381-X, for the establishment and operation of a health care facility to be located at 5490 State Route 10, Salt Rock, Cabell County; no capital expenditure.

#### **HEARING NOTICE**

March 18, 2011 – Cabell Huntington Hospital, Huntington, Cabell County, CON File #10-2-9305-P, for the acquisition of an existing solo physician office practice located at Teays Valley Road, Hurricane, Putnam County; capital expenditure: \$200,000.

The Administrative Hearing and Prehearing Conference have been SCHEDULED in the following matter:

Prehearing Conference                      **Friday, April 15, 2011, at 11:00 a.m.**

Administrative Hearing                      **Monday, April 25, 2011, at 9:00 a.m.**

#### **TIME FRAME ORDER ISSUED**

March 18, 2011 – Cabell Huntington Hospital, Huntington, Cabell County, CON File #10-2-9305-P, for the acquisition of an existing solo physician office practice located at Teays Valley Road, Hurricane, Putnam County; capital expenditure: \$200,000.

#### **CERTIFICATE OF NEED APPROVALS ISSUED**

March 30, 2011 – Greenbrier VMC, LLC d/b/a Greenbrier Valley Medical Center, Lewisburg, Greenbrier County, CON File #10-4-9244-X/P, for the establishment of an ambulatory care facility to relocate its sleep laboratory and related physician practice to a site off the hospital campus in Lewisburg, Greenbrier County; capital expenditure: \$100,000.

March 31, 2011 – Weirton Medical Center, Weirton, Brooke County, CON File #10-11-9326-H, for the development of inpatient and outpatient psychiatric services; capital expenditure: \$500,000.

#### **NOTICES OF SUBSTANTIAL COMPLIANCE**

The following projects have been implemented in substantial compliance and the case files are now closed:

April 1, 2011 – West Virginia University Hospitals, Morgantown, Monongalia County, CON File #08-6-8832-H, for the construction of a data center; capital expenditure:

#### **OTHER**

\$7,395,580.34

April 1, 2011 – West Virginia University Hospitals, Inc., Morgantown, Monongalia County, CON File #04-6-7973-E, for the replacement and upgrade of its Clinical Information System; capital expenditure: \$49,577,330.

April 1, 2011 – West Virginia University Hospitals, Inc., Morgantown, Monongalia County, CON File #09-6-8963-X/H, for the relocation of existing outpatient cardiac services located within the hospital to an off-site leased facility; capital expenditure: \$2,240,740.76.

Further information may be obtained on any of the above-referenced projects by contacting Timothy E. Adkins, Director, Certificate of Need Division.

Concise legal notices April 4, 2011

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D., Secretary  
West Virginia Department of  
Health and Human Resources



James L. Pitrolo, Jr.  
Chairman

Board Members  
Sonia D. Chambers  
Mark G. White

## OTHER

Notice of Review  
Page 2  
April 1, 2011

### NOTICE OF REVIEW

FOR IMMEDIATE RELEASE

April 1, 2011

### NEWS ITEM

The Health Care Authority (Authority), James L. Pitrolo, Jr., Chairman, pursuant to the Certificate of Need program, has declared complete and accepted for review the expedited applications referenced below:

March 31, 2011 – Health Care REIT, Inc., Toledo, Ohio, FC-GEN Operations Investment, LLC, Alpharetta, Georgia, FC-GEN Real Estate LLC, Toledo, Ohio, Genesis Operations LLC, GHC Ancillary Corporation, GHC JV Holdings, LLC, Carehaven JV LLC, Glenmark Properties I JV LLC, Kennett Square, Pennsylvania, CON File #11-2/3/4/5/6/8/9/11-9388-A, involving a change affecting the ownership of the real estate and equipment of twenty (20) West Virginia nursing homes; capital expenditure: \$416,750,000.

March 31, 2011 – HEALTHSOUTH MountainView Rehabilitation Hospital, Morgantown, Monongalia County, CON File #11-6-9391-B, for the relocation of 16 Rehabilitation beds to a satellite unit at United Hospital Center, Bridgeport, Harrison County; capital expenditure: \$950,000.

An application that has been declared complete is one in which there is sufficient information for the Authority to make an informed decision. It does not mean that the approval of the application is warranted.

On or before April 19, 2011, any affected person may present reasons to the Authority as to why the applicants of the projects should complete a standard application.

If the Authority concludes that the standard application should be used on any project, the review will be stopped and a new one begun using the standard application.

Also, by May 9, 2011, any affected person has the right to request that the Authority hold a public hearing on the projects as part of the review. If a public hearing is conducted during the course of the review, a "Notice of Public Hearing", specifying the date, time and location of the hearing, will be issued to affected persons.

If no public hearing is requested, the file closing date will be May 10, 2011. After that date, no further information or evidence will be accepted by the Authority for the remainder of the review of the applications, and no further contact with the Authority regarding the substance of the applications will be permitted.

The decisions on the projects referenced above will be issued by the Authority after it has reviewed the contents of the case files of the projects, including the applications, additional information submitted to the Authority during the review, and the record of any Authority public hearing. If there is no request for public hearing, the decisions will be issued on or before June 13, 2011.

A press release will be issued after the decisions are made. Anyone wishing to be directly notified of the decisions should submit a written request to Timothy E. Adkins, Director, Certificate of Need, Health Care Authority, 100 Dee Drive, Charleston, West Virginia, 25311-1600. Further information on any project referenced in this news release may be obtained by contacting the Certificate of Need office at telephone number (304) 556-7000.

2-31-11

Date

James L. Pitrolo, Jr., Chairman  
Health Care Authority

## OTHER

### DISTRIBUTION

Raymona A. Kinneberg  
Bill Crouch & Associates, Inc.

The Honorable Natalie Tennant  
Secretary of State

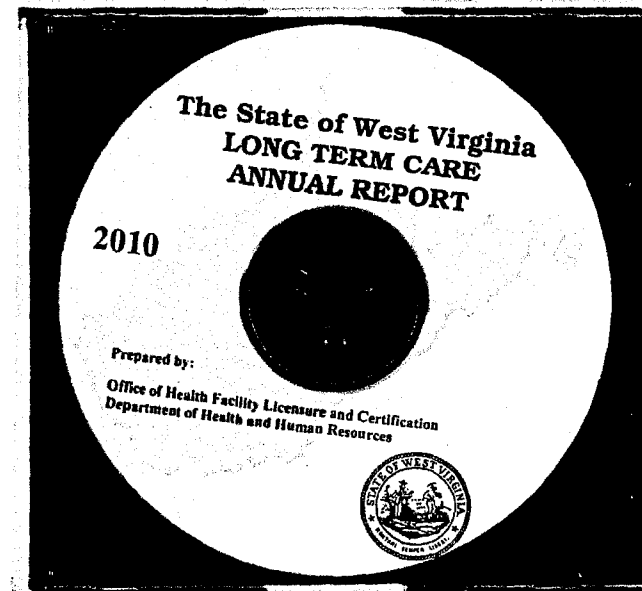
Dennis Garrison, Director, Consumer Advocacy Division  
West Virginia Insurance Commission

James L. Pitrolo, Jr., Chairman  
Health Care Authority

CON Analysts

JLP/TEAKM/jc

summary.docx 01/10/2010 1:20 PM



2011 APR -6 AM 10:20  
SCOTT G. MOORE



State of West Virginia  
Earl Ray Tomblin, Governor

WV Office of Miners' Health, Safety & Training  
C. A. Phillips, Acting Director  
1615 Washington Street East • Charleston, West Virginia • 25311-2126  
Telephone 304-558-1425 • Fax 304-558-1282  
[www.wvminersafety.org](http://www.wvminersafety.org)

# MEMORANDUM

TO: All West Virginia Operations and Interested Parties

FROM: C. A. Phillips, Acting Director CAP

DATE: April 6, 2011

RE: Enforcement of W. Va. Code § 22A-2-55(a) and 56 CSR 3-47.3(b), Safety Helmets

Recently questions have arisen regarding the enforcement of W. Va. Code § 22A-2-55(a) and 56 CSR 3-47.3(b), the requirement of surface mine employees to wear safety helmets when working in areas where there is a possible danger of head injury from impact, or from falling or flying objects, or from electrical shock and burns. This agency interprets this requirement to mean that unless an individual is in a building or operating equipment exempted under W. Va. Code § 22A-2-55(a) or 56 CSR 3-47.3(b), everyone shall wear a safety helmet at all times while on the bonded property of a surface mine.

Should you have any questions, do not hesitate to call.

CAP:els

pc: The Office of the Secretary of State  
WVOMHST regional offices  
Inspectors-at-Large

• Region One • 14 Commerce Dr., Suite 1 • Westover, West Virginia 26001 • Telephone 304-285-3268 • Fax 304-285-3275  
• Region Two • 691 Stewart St. • Welch, West Virginia 24801-2311 • Telephone 304-436-8421 • Fax 304-436-2100  
• Region Three • 137 Peach Court, Suite 2 • Danville, West Virginia 25853 • Telephone 304-369-7823 • Fax 304-369-7828  
• Region Four • 550 Industrial Dr. • Oak Hill, West Virginia 25901-9714 • Telephone 304-469-8100 • Fax 304-469-4059

OTHER



Earl Ray Tomblin  
Governor

STATE OF WEST VIRGINIA  
Department of Revenue  
State Tax Department

Craig A. Griffith  
State Tax Commissioner

## TECHNICAL ASSISTANCE ADVISORY 11-002

SUBJECT: Nexus of Out-of-state Customers of Commercial Printer for Collection of Use Taxes and Payment of Income and Business Franchise Taxes.

This letter is in reply to your request for issuance of a technical assistance advisory that up-dates technical assistance advisory 96-003, as provided in W. Va. Code §11-10-5r, and is based upon facts submitted in support of the earlier request and additional information recently provided. Your letter of September 29, 1995, requested issuance by the Tax Commissioner of a technical assistance advisory concluding that certain contacts of customers of \_\_\_\_\_, with the State of West Virginia, described more particularly below, will not be sufficient nexus with the State of West Virginia to make those customers subject to the West Virginia consumers sales and service tax or use tax, the personal or corporation net income tax, or the West Virginia business franchise tax.

While the facts applicable to technical assistance advisory 96-003 remain effective, your letter of November 5, 2010, requests issuance by the Tax Commissioner of an up-dated technical assistance advisory concluding that certain other contacts of customers of \_\_\_\_\_, with the State of West Virginia, described more particularly below, will not be sufficient nexus with the State of West Virginia to make those customers subject to the West Virginia consumers sales and service tax or use tax, the personal or corporation net income tax, or the West Virginia business franchise tax.

## FACTS:

The material facts provided in your letter of September 29, 1995, for purposes of this technical assistance advisory are as follows: \_\_\_\_\_ (the "Printer") is an out-of-state corporation which has acquired a plant site in West Virginia for the purpose of constructing and operating a commercial printing facility. Contracts for print work are solicited by or through Printer's sales representatives. Where a particular job is printed depends upon factors such as ability of the printing plant to meet customer deadlines, capability of equipment at a particular plant, previous experience of a printing plant with print work desired by a particular customer, and proximity of the print plant to the customer's distribution area. The customer may request that a particular print job be done, or not done, by a particular plant. Due to the nature of the printing process and printing industry practice, it is common for a print customer to have raw materials, work in process and finished print goods located at its printer's plant.

Customers frequently purchase and provide to the printer the paper which is to be used for their print jobs. Customers order this paper from the paper manufacturer and arrange for it to be delivered to the printing plant. The amount of raw paper inventory belonging to customers that will be located at Printer's West Virginia printing facility, both in terms of quantity and value, will vary throughout the year depending upon the customer, what is being printed, the frequency such item is printed and when during the year such item is printed. Printer will also maintain an inventory of paper for use in print jobs where the customer does not provide the paper. Printer will typically print magazines, catalogs, color advertising circulars and similar items. Due to the size of the print runs, it will not be unusual for a job to be done in segments. Thus, a customer could have certain portions of a job completed and still be awaiting completion of the remainder of the job. Upon completion of the print job, the finished product may be stored on the printer's premises for a period of time prior to the scheduled mailing or distribution date. Length of this storage depends upon what is being printed and its time sensitive nature.

For example, if a magazine published weekly is being printed, the finished print job will remain at Printer's printing plant for only a very short period of time. Something that is less time sensitive may remain for

LEGAL DIVISION, P.O. BOX 1005, CHARLESTON, WV 25324-1005  
TELEPHONE (304) 558-5330  
FAX (304) 558-8728

## OTHER

longer periods of time. Printer's printing plant will include a distribution facility integrated with the United States Postal Service through which individual catalogs and other printed materials can be sent to Printer's customers, or mailed directly to their magazine subscribers or other customers, e.g., catalogs delivered to persons on customer's distribution list. Production may be delivered in bulk to the Printer's customers or to others for further distribution. For example, a customer's printed magazine may be mailed to individual subscribers, as well as shipped in bulk to magazine wholesalers and retailers.

Printer's customers will, from time to time, send personnel into West Virginia for the purpose of performing review and approval tasks with respect to items being printed. This includes, but is not limited to, performing color checks and other ancillary activities in connection with their print job. Such personnel will be in this State only for the period of time necessary to perform the specific activity. The frequency with which such personnel are in this State during any twelve month period and the length of each stay depends upon what is being printed and the number of times during a 12 month period a new, different or revised edition of a product is printed for a customer. For example, color checks on a catalog that is printed twice a year will normally occur twice a year. Time spent in this state by employees of the out-of-state customer on behalf of their out-of-state employer is limited to the amount of time necessary to complete the specific ancillary activity. This could be a day or less, or several days depending upon what is being printed. Printer's customers are typically large national mailers. It is assumed for purposes of this advisory that such customers mail their product or products into West Virginia, but otherwise have no other contacts or presence in West Virginia.

The additional material facts provided in your letter of November 5, 2010, for purposes of this technical assistance advisory are as follows: Printer is in the process of developing a "Distributive" off-line co-mail network to better serve the Printer's new catalog plants and Printer's collective catalog client base. There are 3 co-mail sites, one of which is located in WV, which will function as regionalized consolidation points. The catalogs will be printed and bound in their "home" plant, and the bound/finished product will be shipped to these consolidation sites.

The consolidation sites will serve a particular geographic region of the country. Catalogs participating in this program will have portions of their mailing shipped to all three of these facilities to be consolidated there. In these facilities, the titles will be combined, addressed and then mailed from there. The USPS will have representatives in the facility and will verify the mail from these sites.

Printer's clients have questioned whether nexus will be established when catalogs are printed in another State and then sent to West Virginia for mailing services which result in the catalogs being shipped to client's customers throughout the country with only an extremely small number (500 catalogs) going to West Virginia customers. The rest of the order will be shipped to customers outside of West Virginia. Printer's clients assert that even under the additional facts presented, they are not to be considered to be regularly, systematically or purposefully directing their activities at West Virginia customers and, as a result, nexus should not result.

### DISCUSSION AND ANALYSIS:

Under the preceding facts, including the additional material facts provided in your letter of November 5, 2010, it is clear that all contacts these out-of-state clients of Printer have with West Virginia will be directly connected with, limited to, and in furtherance of services Printer contractually agrees to provide to them as clients, which services are limited to printing items, such as magazines, catalogs, advertising supplements, etc., distributing the finished product pursuant to the customer's instructions, and ancillary activity in connection with these services. The question presented here is whether mere ownership by Printer's out-of-state clients of raw materials paper inventory located in West Virginia for processing by Printer, the ownership of print work in progress and the ownership of the finished printed product by the client, held at, or in transit to, or from, the printer's West Virginia facility for a period of time before delivery are sufficient, in and of themselves, to impose a consumers sales and service tax or use tax collection requirement on Printer's out-of-state clients, or to impose on such clients an obligation to file West Virginia income or business franchise tax returns and pay either tax. The power of a State to tax an out-of-state business is subject to three principal limitations. These are: (1) limitations found in the Commerce

Clause, Article I, § 8, cl. 3 of the United States Constitution, and the Due Process Clause of Fourteenth Amendment thereto, (2) limitations imposed by federal law, e.g., Public Law 86-272, etc., and (3) limitations which a State may voluntarily impose upon itself.

**A. DUE PROCESS:** Until recently, United States Supreme Court decisions have not always clearly distinguished between the Due Process Clause and the Commerce Clause when determining whether or not a State may tax an out-of-state business or require that business to collect a tax imposed by the State. In *Quill Corporation, v. North Dakota*, 504 U.S. 298, 119 L. Ed. 2d 91, 112 S. Ct. 1904 (1992), the Court clarified that these two clauses are analytically distinct. *Id.*, 119 L. Ed. 2d, at 102. "The Due Process Clause 'requires some definite link, some minimum connection between a state and the person, property of transaction it seeks to tax,' *Miller Bros. Co. v. Maryland*, 347 U.S. 340, 344-345, 98 L. Ed. 744, 74 S. Ct. 535 (1954), and that the 'income attributable to the State for tax purposes must be rationally related to 'values connected with the taxing State' *Moorman Mfg. Co. v. Blair*, 437 U.S. 267, 273, 57 L. Ed. 2d 197, 98 S. Ct. 2340 (1978) (citation omitted)." *Quill Corp., supra*, 119 L. Ed. 2d, at 102. Due Process standards, at least for use tax collection purposes, do not require a physical presence in the State, so long as the out-of-state business is "doing business" in the State in an *in personam* jurisdictional sense. *See id.*, 119 L. Ed. 2d, at 103-104.

**B. COMMERCE CLAUSE:** The *Quill* decision confirmed that the Court will sustain a tax against a Commerce Clause challenge so long as the tax satisfies the four-part test set forth in *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 97 S. Ct. 1076, 51 L. Ed. 2d 326 (1977). *See Quill Corp.*, 119 L. Ed. 2d, at 105. This test requires that the "tax [1] is applied to an activity with a substantial nexus to the taxing State, [2] is fairly apportioned, [3] does not discriminate against interstate commerce, and [4] is fairly related to the services provided by the taxing State. *Complete Auto*, 430 U.S., at 279, 51 L. Ed. 2d 326, 97 S. Ct. 1076. "Substantial nexus" under the Commerce clause sufficient to require an out-of-state business to collect a State's use tax requires that the out-of-state business have a physical presence in the State. *See Quill Corp., supra*, 119 L. Ed. 2d, at 110; *National Bellas Hess, Inc. v. Dept. of Revenue of Ill.*, 386 U.S. 753, 18 L. Ed. 2d 505, 87 S. Ct. 1389 (1967). The *Quill* Court also stated that the "substantial-nexus" requirement of the Commerce Clause is not, like the "minimum-contacts" requirement of the Due Process Clause, a proxy for notice. Rather, it is a means for limiting state burdens on interstate commerce. Therefore, even if the out-of-state business has the necessary minimum contacts with a taxing State for Due Process purposes, it may lack the "substantial nexus" with that State required by the Commerce Clause. *See Quill Corp., supra*, 119 L. Ed. 2d, at 107.

We conclude that mere ownership by Printer's out-of-state clients of raw materials paper inventory located in West Virginia for processing by Printer, occasional visits to Printer's facility by representatives of Printer's out-of-state clients for the limited purpose of performing ancillary activities in connection with their print job, and the ownership of the work in progress or finished printed product by the client, held for a limited period of time at, or in transit to, or from, Printer's West Virginia facility are not sufficient, in and of themselves, to impose a consumers sales and service tax or use tax collection requirement on Printer's out-of-state clients and such contacts are insufficient to impose on such customers a duty to file returns and pay West Virginia income or business franchise tax returns. This is because these out-of-state clients of Printer, under the facts presented for purposes of this advisory will not be regularly, systematically and purposefully directing their activities at West Virginia customers for purposes of selling them goods or services.

### CONCLUSION:

It is the determination of the Tax Commissioner that: (1) Under the facts and circumstances described in this advisory, Printer's out-of-state clients will not be required to collect and remit West Virginia consumers sales and service tax or use tax, or be required to file returns and pay West Virginia income or business franchise taxes. (2) In the event an out-of-state client of Printer has any additional contact with this State not included in the facts stated herein for purposes of this advisory, Printer's out-of-state client may be subject to the taxing jurisdiction of this State depending upon the specific facts and circumstances and provided such taxation is permissible under the Due Process and Commerce Clauses of the United States Constitution and not otherwise prohibited by federal law. The conclusions reached in this technical

OTHER

assistance advisory are based upon the facts submitted and application of current law. In the event there is a material change in the facts, or if it is determined that material facts were omitted or are materially different from those furnished to us for purposes of this ruling, or there is a material change in the applicable law, the conclusions reached in this advisory may no longer apply.

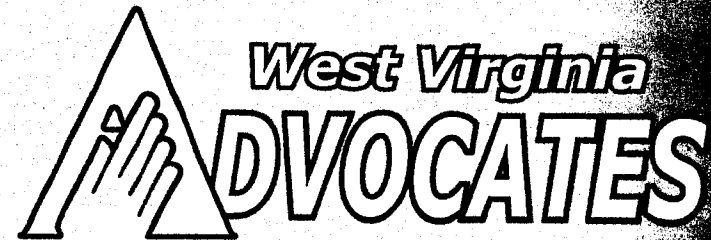
**Declaration of Precedential Value:** — Under W. Va. Code §11-10-5r(b), a Technical Assistance Advisory has no precedential value, except to the person who requests the advisory, unless the Tax Commissioner specifically states that it has precedential value. Due to the specialized nature of the question presented for ruling, this Technical Assistance Advisory is declared to have no precedential value, and may not be relied upon by any person other than the Printer and Printer's out-of-state clients whose contacts with this State do not exceed those stated in this Technical Assistance Advisory.

**Publication:** — Under W. Va. Code §11-10-5r(e), the Tax Commissioner is required to release technical assistance advisories to the public after they are modified to delete identifying characteristics unless the person requesting the advisory waives its right to confidentiality. This advisory is released as Technical Assistance Advisory 11-002. Here, the right to confidentiality was waived. If you have any questions about this advisory, please contact this office at your convenience.

Sincerely,

Craig A. Griffith  
Tax Commissioner

ISSUED: March 28, 2011



# Annual Report

Fiscal Year 2010  
(October 2009 - September 2010)

Protecting and Advocating for the  
Rights of People with Disabilities  
Since 1977

**THE FOLLOWING ARE PUBLICATION DATES OF THE STATE REGISTER FOR 2011**

**DATES ARE THE DATES ALL FILINGS ARE TO BE RECEIVED IN THE  
SECRETARY OF STATE'S OFFICE IN ORDER FOR THE MATERIAL TO APPEAR IN  
THE STATE REGISTER PUBLISHED ON THE DATE LISTED.**

<u><b>Deadline Date</b></u>	<u><b>Publication Date</b></u>	<u><b>Meeting may be held on or after</b></u>	<u><b>Deadline Date</b></u>	<u><b>Publication Date</b></u>	<u><b>Meeting may be held on or after</b></u>
January 5, 2011	January 7, 2011	<b>January 12, 2011</b>	July 6, 2011	July 8, 2011	<b>July 13, 2011</b>
January 12, 2011	January 14, 2011	<b>January 19, 2011</b>	July 13, 2011	July 15, 2011	<b>July 20, 2011</b>
January 19, 2011	January 21, 2011	<b>January 26, 2011</b>	July 20, 2011	July 22, 2011	<b>July 27, 2011</b>
January 26, 2011	January 28, 2011	<b>February 2, 2011</b>	July 27, 2011	July 29, 2011	<b>August 3, 2011</b>
February 2, 2011	February 4, 2011	<b>February 9, 2011</b>	August 3, 2011	August 5, 2011	<b>August 10, 2011</b>
February 9, 2011	February 11, 2011	<b>February 16, 2011</b>	August 10, 2011	August 12, 2011	<b>August 17, 2011</b>
February 16, 2011	February 18, 2011	<b>February 23, 2011</b>	August 17, 2011	August 19, 2011	<b>August 24, 2011</b>
February 23, 2011	February 25, 2011	<b>March 2, 2011</b>	August 24, 2011	August 26, 2011	<b>August 31, 2011</b>
March 2, 2011	March 4, 2011	<b>March 9, 2011</b>	August 31, 2011	September 2, 2011	<b>September 7, 2011</b>
March 9, 2011	March 11, 2011	<b>March 16, 2011</b>	September 7, 2011	September 9, 2011	<b>September 14, 2011</b>
March 16, 2011	March 18, 2011	<b>March 23, 2011</b>	September 14, 2011	September 16, 2011	<b>September 21, 2011</b>
March 23, 2011	March 25, 2011	<b>March 30, 2011</b>	September 21, 2011	September 23, 2011	<b>September 28, 2011</b>
March 30, 2011	April 1, 2011	<b>April 6, 2011</b>	September 28, 2011	September 30, 2011	<b>October 5, 2011</b>
April 6, 2011	April 8, 2011	<b>April 13, 2011</b>	October 5, 2011	October 7, 2011	<b>October 12, 2011</b>
April 13, 2011	April 15, 2011	<b>April 20, 2011</b>	October 12, 2011	October 14, 2011	<b>October 19, 2011</b>
April 20, 2011	April 22, 2011	<b>April 27, 2011</b>	October 19, 2011	October 21, 2011	<b>October 26, 2011</b>
April 27, 2011	April 29, 2011	<b>May 4, 2011</b>	October 26, 2011	October 28, 2011	<b>November 2, 2011</b>
May 4, 2011	May 6, 2011	<b>May 11, 2011</b>	November 2, 2011	November 4, 2011	<b>November 9, 2011</b>
May 11, 2011	May 13, 2011	<b>May 18, 2011</b>	November 8, 2011	November 10, 2011	<b>November 15, 2011</b>
May 18, 2011	May 20, 2011	<b>May 25, 2011</b>	November 16, 2011	November 18, 2011	<b>November 23, 2011</b>
May 25, 2011	May 27, 2011	<b>June 1, 2011</b>	November 21, 2011	November 23, 2011	<b>November 28, 2011</b>
June 1, 2011	June 3, 2011	<b>June 8, 2011</b>	November 30, 2011	December 2, 2011	<b>December 7, 2011</b>
June 8, 2011	June 10, 2011	<b>June 15, 2011</b>	December 7, 2011	December 9, 2011	<b>December 14, 2011</b>
June 15, 2011	June 17, 2011	<b>June 22, 2011</b>	December 14, 2011	December 16, 2011	<b>December 21, 2011</b>
June 22, 2011	June 24, 2011	<b>June 29, 2011</b>	December 21, 2011	December 23, 2011	<b>December 28, 2011</b>
June 29, 2011	July 14, 2011	<b>July 6, 2011</b>	December 28, 2011	December 30, 2011	<b>January 4, 2012</b>